

**Application for Review of a Premises Licence; Trowbridge Cricket Club, The County
Ground Lower Court, Trowbridge, Wiltshire BA14 8PX**

Premises Licence Holders Mrs C Davies and Mr B Scrine

1. Background

- 1.1** My name is Graham Steady and I am the Public Protection Manager for the North and West Environmental Protection team. I qualified as an Environmental Health Officer in 1979 and have practiced continuously since then, apart from undertaking a non-related residential course in 1983/4. My additional qualifications include:

Diploma in Acoustics and Noise Control (Institute of Acoustics) (1986)
Post Grad Diploma in Environmental Acoustics (South Bank University) (2000)
Diploma in Management (Open University) (2006)

I have specialised in Environmental Protection since 1985 and have been employed by Wiltshire Council and a predecessor Authorities for the last seven years.

- 1.2** On the 22 December 2012 Richard Francis, Senior Environmental Health Officer served an application for a review on Christine Davies of Trowbridge Cricket Club. A representation has been made by the Environmental Protection Team as it is the opinion that the combination of the premises structure being unsuitable to hold live and recorded music events and the existing management are ineffective in managing the conditions effectively to promote the licensing objective of Prevention of Public Nuisance. I enclose a copy of this application as **Exhibit 1**.

2. The location and structure of the premise

- 2.1** Trowbridge Cricket Club was founded in 1847. The cricket pavilion was built on the current site in 1894 and is only the second to be built in its style and stature for that time, following that at Lords, the home of English Cricket. The Cricket club has been the County of Wiltshire ground since that time. I enclose photographs of the Cricket Pavilion and surrounding area **Exhibit 2**.
- 2.2** The building has been restored, with the external appearance and the internal first floor function room reflecting its original build in 1894. There have been additions to the building with brick extension to the rear holding a kitchen and other ground floor additions.
- 2.3** The club is surrounded by residential properties on Palmer Road, Seymour Road, Lower Court and Trowbridge hospital. The function room orientation has the stage facing in a North Easterly direction, towards the nearest residential properties on Palmer Road and Downhayes Road, I include a plan of this as **Exhibit 3**. I

enclose both a street map and a satellite image of the Cricket Club and surrounding area as **Exhibit 4 (a) and Exhibit 4 (b)**.

- 2.4** The first floor structure reflects the buildings origins and consists of a timber structure with infill plaster or mortar panels. There is no ceiling, but the tiled roof is underdrawn with timber planking. The windows are double-glazed. There is a large stage which faces North Easterly, bar and settees tables and chairs, has a capacity for approximately 120 people.
- 2.5** The nearest noise sensitive residential properties are at Lower Court which is within 50 meters of the club although the stage orientation directs the music noise towards Downhayes Road and Palmer Road with the next nearest noise sensitive property being approximately 75 meters away in Downhayes Road.
- 2.6** It should be noted that the Environmental Protection Team has consistently expressed doubt as to whether the structure is suitable for the provision of amplified music.

3. History of complaints and Abatement Notice

- 3.1** The Environmental Protection Team began investigating a noise complaint relating to amplified music being heard in Downhayes Road during February 2010. It was established that Trowbridge Cricket Club was in breach of their Club Premises Certificate in that they were openly advertising music events to members of the public who were not members of the cricket club. Following intervention from Wiltshire Council licensing team the Cricket club continued to hold events under the provision of Temporary Event Notices (TEN).
- 3.2** Following a noise investigation the council served a noise abatement notice on the cricket club on the 13th May 2010, which I include as **Exhibit 5**. A breach of the noise abatement notice was witnessed by authorised officers of the council on the 14th August 2010.
- 3.3** The cricket club appealed the requirements of the abatement notice however the appeal was subsequently withdrawn.
- 3.4** Music events continued to be held at the cricket club through the provision of TENS and breaches of the abatement notice continued through this period with officers witnessing breaches on both the 23 October 2010 and the 6 November 2010.
- 3.5** The council did not prosecute the cricket club for the continued breaches of the abatement notice but instead invited the Cricket club to apply for a Premises licence with the intention that the Environmental Protection team would request that appropriate conditions were applied to the licence to protect the licensing objective of prevention of public nuisance.

4. Granting of the licence January 2011

- 4.1** A premises licence application for Trowbridge Cricket Club, The County Ground, Lower Court , Trowbridge was received by the Council in November 2010, the applicants being Mr Brian Scrine and Miss Christine Davies. The application related to the extension of hours and the provision of regulated entertainment.
- 4.2** A representation was made by the Environmental Protection team for the Premise Licence application made by the Trowbridge Cricket Club on the 8th November 2010. The representation was made with regards to protecting the licensing objective of prevention of public nuisance.
- 4.3** Conditions were agreed with the Cricket Club on the 1st December 2010 prior to the hearing in January 2011. The licensing committee granted the licence on the 6th January 2011. I enclose a copy of the minutes of the licenising hearing and the a copy of the premise licence as granted as **Exhibit 6** and **Exhibit 7**. The following conditions were placed upon the licence to protect the licensing objective of public nuisance:
- (i) A noise limiter device shall be fitted on the first floor and all live music provided on this floor shall be played through this device. The noise limiter shall be connected to the mains supply and prior to any live music event being provided, the limiter shall be set at a level agreed with officers from the Environmental Protection Department of Wiltshire Council. This level shall not be altered and once agreed, access to the limiter shall be restricted to senior members of staff only for resetting purposes.
 - (ii) The applicant shall submit a noise management plan. The plan shall include a suitable monitoring regime when live music is being provided on the first floor, including exact locations, frequency and documentary evidence that monitoring is being carried out. The plan shall be agreed by the Council's Environmental Protection Department in writing before any regulated entertainment takes place at the premises. Any minor alterations to the noise management plan shall be submitted to and agreed in writing, by the Council.
 - (iii) Live music on the first floor shall be limited to two events per calendar month; and
 - (iv) Live music on the first floor shall cease at 23.30 hours

5.0 Grounds for Review

- 5.1** Following the grant of the licence in January 2011, the Cricket Club continued to hold live music events without a working noise limiter or agreed management plan. The noise management plan was agreed with the Council in April 2011 and the first limiter setting was not undertaken until 4 May 2011. This exercise was undertaken by four authorised officers of the council with Peter MCMILLAN (Senior Environmental Health Officer) and Helen PINCHEN (Environmental Health Officer) at the cricket club and Richard ROMERO (Environmental Health Officer) and Chris PORTAL (Public Protection Officer) at 23 Downhayes Road.

This exercise was undertaken by playing amplified recorded music at the club and two officers listening to different levels being played at the club and determining a suitable level inside the bedroom of 23 Downhayes Road. The limiter was set at a level where music was no longer intrusive at the complainant's house. I enclose a copy of the noise management plan as **Exhibit 8**.

- 5.2** The club were not happy at the levels set as they felt that the music was not loud enough to provide a suitable environment for the patrons and musicians and requested that the exercise be repeated with different officers. This exercise was repeated on 27 June 2011 with different officers at the complainant's house in Downhayes Road, Richard FRANCIS and Viki BROWN (Public Protection Officer) attended 23 Downhayes Road and Peter MCMILLAN (Senior Environmental Health Officer) and Helen PINCHEN (Environmental Health Officer) at the Cricket Club with Graham STEADY observing the exercise at both the house and the club, the levels on this occasion were set at identical levels that were set at the first exercise on 4 May 2011.
- 5.3** Following the second setting Peter MCMILLAN wrote to the cricket club 8 July 2011 and stated that the music levels inside the club were below a level that patrons would find live entertainment satisfying and below the levels that performers would be content to play in. It was reiterated to the club that the venue wasn't appropriate for live music and a recommendation was made to cease using it for this purpose. I enclose a copy of this letter as **Exhibit 9**.

6.0 Complaints

- 6.1** A complaint was received on Saturday the 5th May 2012 via the Out of Hours service and Susie VOWLES (Public Protection Officer) attended Downhayes Road and witnessed music that in her opinion was a breach of the noise abatement notice. The music could be heard in the street and inside the bedroom of the house with lyrics being clearly audible. Mrs S VOWLES statement can be found as **Exhibit 10**.
- 6.2** A letter was hand delivered to Christine DAVIES (Premises licence holder) on 17 May 2012, reminding them of the requirements of the noise abatement notice and the licence conditions and requesting a written response in reply to this incident. I enclose this letter as **Exhibit 11**.
- 6.3** A response was received from the cricket club detailing mitigating circumstances, i.e. an electrical fault within the club had resulted in the noise limiter becoming inactive. I enclose this letter from the Cricket Club as **Exhibit 12**
- 6.4** On the night of 14 July 2012, three officers, Annabel WILKINSON (Environmental Health Officer), Maggie JONES (Public Protection Officer -Licencing) and Jo Quarterly (Public Protection Officer -Licencing) attended Mr Aldam's house and did not witness the music at his house. They both then visited the Cricket Club unannounced and observed that the noise limiter was not being used for the live music that evening and considered that an offence was being committed. Mrs A WILKINSON interviewed Mrs Christine DAVIES (Designated Premises Supervisor), whilst under caution regarding two alleged breaches of condition; being
- 1) failure to use the noise limiter and

- 2) Failing to implement the Noise Management Plan in that the club were not able to produce the noise log book. I enclose Annabel WILKINSONS statement as **Exhibit13** and Maggie JONES statement as **Exhibit 14**.
- 6.5** On the evening of Saturday 27 July Maggie JONES and Jo QUARTELEY visited Downhayes Road and the Cricket club. No music was heard in Downhayes Road and following a visit to the club, they identified that the the noise limiter on this occasion was being used.
- 6.6.** On the evening of 25 August 2012 Richard FRANCIS and Linda HOLLAND (Senior Public Protection Officer - Licensing) attended Downhayes Road and listened from the complainants bedroom, the music was heard at low levels and in the officers opinion was marginal and not a breach of the noise abatement notice. I enclose Richard FRANCIS and Linda HOLLAND statements as **Exhibit 15 and Exhibit 16**.
- 6.7** A meeting was held at the cricket club on the 31st August 2012, between Graham STEADY Richard FRANCIS and Mrs Christine DAVIES (Designated Premises Licence holder) where she expressed her concerns about the constraints the noise limiter was placing on the club and believed it was set too low, Mrs DAVIES was told to write formally to the council expressing her concerns and was reminded that the club should continue to use the limiter to prevent future licensing breaches.
- 6.8** On Saturday 1 September 2012, Linda HOLLAND and Susie VOWLES attended Downhayes Road and witnessed music that could be heard in the bedroom and could be heard in the street at Downhayes Road and in the main Road Islington B3106 (approximately 150 meters away) and in their opinion was both a breach of the noise abatement notice and was a public nuisance. Officers believed that these levels should not be experienced at these locations if the limiter was being used correctly. Both Linda HOLLAND and Susie VOWLES visited the cricket club and observed the red lights flashing on the limiter, however could not confirm if the electrical points on the stage were being used. However on questioning Mrs C DAVIES she confirmed it was being used, although no noise log sheets could be produced on request. I refer to Mrs Linda HOLLANDS statement as exhibit 16 and Mrs Susie VOWLES statement as exhibit 10 as introduced earlier.
- 6.9** Richard FRANCIS wrote to Christine DAVIES at Trowbridge Cricket Club on the 28th September 2012 making them aware of our intentions to call a review against the premises licence and also offering to undertake an acoustic assessment of the premises to identify the significant pathways for noise breakout and provide recommendations for sound insulation. I enclose a copy if this letter as **Exhibit 17**.
- 6.10** On both the 13th October 2012 and 10th of November 2012 Wiltshire Council placed noise equipment in the bedroom of the complainants house in Downhayes road and recordings were made of live music events that were intrusive inside the complainant's house in Downhayes Road. The recordings indicated that the music was both audible and intrusive in that the actual music tracks could be identified and the lyrics of the songs could be identified. It was the view of the Richard FRANCIS that these levels were both a breach of the noise abatement notice and were a public nuisance. I enclose a second statement Richard FRANCIS as **Exhibit 18 (this will include written interpretation of recordings)**. I also introduce a copy of a sample of the noise recordings undertaken on the both the 13th October and 10th November 2012 as **Exhibit 19**.

7.0 Decibel levels

- 7.1 There is an absence of any specific objective noise criteria; however the guideline values contained in the World Health Organisations "Guidelines for Community Noise 1999/ BS 8233 1999 is frequently used. These guidelines have been produced by a consensus of expert opinion and are values for the avoidance of particular effects e.g. annoyance and sleep disturbance.
- 7.2 The following decibel levels are not statutory guidance although are recognised by Acoustic consultants and Local Authorities as the industry standard that should be achieved for acceptable internal noise levels to avoid sleep disturbance.

Indoor Guideline values for bedrooms are 30 dB $L_{Aeq(8hr)}$ for continuous noise

And

45 dB L_{Amax} for single sound events.

- 7.3 It should be noted the guideline values above are used for "anonymous" noise e.g. free flowing road traffic. However it should be recognised that Music is more identifiable and can cause disturbance and nuisance at levels below these values as music, by definition, contains a significant amount of acoustic information and it is more than merely something outside the window. In addition "A" weighted noise levels have been shown to under represent the annoyance caused by low frequency noise i.e. the bass elements of live music. Decibel levels for the noise periods identified within the recordings played for the committee are demonstrated in **Exhibit 20**.

8.0 Noise Assessment

- 8.1 The Industrial Noise and Vibration Centre (INVC) were appointed by Wiltshire Council to carryout an assessment and best practicable means (BPM) audit of function noise from Trowbridge Cricket Club. The acoustic report is presented as **Exhibit 21**.
- 8.2 The acoustic report provided recommendations which could improve the sound insulation of the first floor function room.
- 8.3 The Environmental Protection Team has subsequently shared noise measurements and recordings taken in the bedroom of 23 Downhayes Road whilst a live band has performed at the club and presented them to the noise consultant. It was agreed that the music was very clear and much more than the results of the noise survey would suggest. With this in mind it may be that the initial assessment has overestimated the effectiveness of the roof or that another transmission path exists.
- 8.4 With this new information to hand it is recommended by the independent noise consultant that no insulation works are undertaken by the cricket club until an additional noise survey is completed.
- 8.5 A noise survey is required to be undertaken whilst a live band is playing in the first floor function room. An additional report containing revised recommendations will be required to be produced and all recommendations actioned. The council have

written to the Cricket Club to request agreement to this additional survey work however to date they have not responded. I include this letter as **Exhibit 22**.

9.0 Live Music Act 2012

9.1 The Environmental Protection Team would like to bring the implications of the Live Music Act 2012 to the Licensing Sub Committee and make an application to this committee for section (2) sub-section (3) of the Live Music Act 2012 to come into effect. I have included a copy of the Live Music Act as **Exhibit 23**. **In effect, the Act would exempt the club from the requirements of the Licensing Act as it applies to regulated entertainment for audiences of less than 200 and finishing by 23.00 hrs, unless this Committee disapplies the Act.**

9.2 It is recommended that the Live Music Act, 2012 be disapplied to these premises.

10.0 Summary

10.1 I am of the opinion that the premises are unsuitable for the provision of recorded and live music

10.2 Following the service of a noise abatement notice, a licensing hearing in which substantial conditions were attached to the licence, evidence from authorised officer observations and statements recording breaches of licence conditions and experienced noise levels, noise recordings and an acoustic assessment, I am further of the opinion that the prevention of public nuisance licence objective has not been adequately promoted by Christine DAVIES, Brian SCRINE (Licence Holders) and the committee of Trowbridge cricket club .

10.3 I would request that these provisions be removed from the licence and therefore recommend that the committee undertake the following actions:

Recommendations

- (i) The provisions of the Live Music Act 2012 be disapplied to this premises.
- (ii) That both live and recorded amplified music be removed from the premises licence.